

# HOUSE . . . . . No. 1745

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## The Commonwealth of Massachusetts

PRESENTED BY:

**Ellen Story, Byron Rushing**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act updating the public health laws.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Ellen Story	3rd Hampshire
Byron Rushing	9th Suffolk
Harriette L. Chandler	First Worcester
Patricia D. Jehlen	Second Middlesex
Bill Bowles	2nd Bristol
William N. Brownsberger	24th Middlesex
Cheryl A. Coakley-Rivera	10th Hampden
John P. Fresolo	16th Worcester
Denis E. Guyer	2nd Berkshire
Jay R. Kaufman	15th Middlesex
John D. Keenan	7th Essex
Kay Khan	11th Middlesex
Peter V. Kocot	1st Hampshire
Stephen Kulik	1st Franklin
David P. Linsky	5th Middlesex
Elizabeth A. Malia	11th Suffolk
Sarah K. Peake	4th Barnstable
Denise Provost	27th Middlesex
Pam Richardson	6th Middlesex

Rosemary Sandlin	3rd Hampden
Tom Sannicandro	7th Middlesex
Frank I. Smizik	15th Norfolk
Robert P. Spellane	13th Worcester
Cleon H. Turner	1st Barnstable
Martha M. Walz	8th Suffolk
Alice K. Wolf	25th Middlesex
Sonia Chang-Díaz	Second Suffolk
Jennifer L. Flanagan	Worcester and Middlesex
Marc R. Pacheco	First Plymouth and Bristol
Bruce E. Tarr	First Essex and Middlesex
Jennifer Benson	37th Middlesex
Christine E. Canavan	10th Plymouth
Katherine Clark	32nd Middlesex
Steven J. D'Amico	4th Bristol
Mark V. Falzone	9th Essex
Michael J. Moran	18th Suffolk
John W. Scibak	2nd Hampshire
Carl M. Sciortino, Jr.	34th Middlesex
David M. Torrisi	14th Essex
James B. Eldridge	Middlesex and Worcester
Steven A. Tolman	Second Suffolk and Middlesex
Linda Dorcena Forry	12th Suffolk
Barry R. Finegold	17th Essex
Louis L. Kafka	8th Norfolk
Barbara A. L'Italien	18th Essex
Ruth B. Balser	12th Middlesex
Jonathan Hecht	29th Middlesex
Richard R. Tisei	Middlesex and Essex
Carolyn Dykema	8th Middlesex
Lori Ehrlich	8th Essex
Patricia A. Haddad	5th Bristol
Kevin G. Honan	17th Suffolk
Cory Atkins	14th Middlesex
Gale D. Candaras	First Hampden and Hampshire
Susan C. Fargo	Third Middlesex
Karen E. Spilka	Second Middlesex and Norfolk
Geraldo Alicea	6th Worcester
Gloria L. Fox	7th Suffolk
Sean Garballey	23rd Middlesex
Anne M. Gobi	5th Worcester
Peter J. Koutoujian	10th Middlesex

Anthony D. Galluccio  
Alice Hanlon Peisch

Middlesex, Suffolk and Essex  
14th Norfolk

# The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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## AN ACT UPDATING THE PUBLIC HEALTH LAWS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

WHEREAS The Legislature finds that it is the policy of the commonwealth to provide its citizens with laws that protect the public health, as evidenced by its proud history of enacting laws and policies that protect women's health and allow for the protection of individual rights enumerated in the Massachusetts Declaration of Rights.

WHEREAS The Legislature finds that the near-total bans on contraception and abortion and other unenforceable restrictions are antiquated and unconstitutional laws that run contrary to Massachusetts' strong record on protecting women's reproductive health. Keeping these outdated statutes in the General Laws flies in the face of the commonwealth's commitment to women's health, and any attempts to enforce these laws would pose a grave threat to the public health.

WHEREAS The Legislature finds that Massachusetts is one of only four states in the United States where a pre-*Roe v. Wade* (1973) criminal abortion statute has been neither repealed nor enjoined, despite the fact that legal abortion has protected the health and lives of women in the United States. Prior to the *Roe v. Wade* decision by the U.S. Supreme Court in 1973, an estimated 1,200,000 women each year were forced to resort to illegal abortions, leading to infection, hemorrhage, disfigurement, and death – and unsafe abortion was the leading cause of maternal mortality. Since abortion became legal in the U.S., maternal mortality and morbidity has drastically declined, and deaths and injuries from abortion are now extremely rare.

WHEREAS The Legislature finds that a ban on contraception for unmarried persons remains in the General Laws despite having been found unconstitutional by the U.S. Supreme Court in 1972. Contraceptive use and access is critical to being able to avoid unplanned pregnancy, which can have far-reaching consequences for a woman, her family, and society at large.

Lack of access to contraception is associated with increased health risks for both mothers and children due to unintended pregnancies and closely spaced births.

WHEREAS The Legislature finds that the unenforceable statutory requirement that abortions during or after the thirteenth week of pregnancy be performed only in hospitals duly authorized to provide facilities for general surgery does not serve women's health and instead creates obstacles that may harm women's health in the commonwealth. Medical and surgical abortions are extremely safe procedures. In the United States, 90% of abortions are performed in outpatient settings that – while unconnected with hospitals – adhere to stringent medical standards, and fewer than 0.3% of abortion patients have complications requiring hospitalization. Moreover, abortions in hospital settings are considerably more costly, and these facilities are also not significant providers of this care nationally or in Massachusetts. Requiring second-trimester abortions to be performed in hospitals would greatly limit access to these health services, forcing women to delay or forgo their abortions because they cannot find a hospital to provide this medical care and/or are unable to afford the procedure in such a setting.

THEREFORE BE IT ENACTED:

1 SECTION 1. Section 12Q of chapter 112 of the General Laws, as appearing in the 2004  
2 Official Edition, is hereby amended by striking out the first paragraph and inserting in place  
3 thereof the following paragraph: -

4 Except in an emergency requiring immediate action, no abortion may be performed under  
5 section 12L or 12M unless the written consent of the proper person has been delivered to the  
6 physician performing the abortion as set forth in section 12S.

7 SECTION 2. Section 19 of chapter 272 of the General Laws is hereby repealed.

8 SECTION 3. Section 20 of said chapter 272 is hereby repealed.

9 SECTION 4. Section 21 of said chapter 272 is hereby repealed.

10 SECTION 5. Section 21A of chapter 272 of the General Laws, as appearing in the 2004  
11 Official Edition, is hereby amended by striking out in lines 2, 5, and 8 the word "married".